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9/15/09

*In the United States Patent and Trademark Office*

Appn. Number: 10/760,156  
Parent Appn. 10/007,489 Filed: 12/05/2001  
Applicant: Elizabeth Gay Frayne  
Title: Use of a Modified Phosphate for Enhancing the Natural Mutation Rate in Bacteria and Mutating Recombinant DNA Phage Inserts.  
Examiner: Nancy Vogel  
Art Unit:1636

Assistant Commissioner for Patents  
Washington, District of Columbia 20231

**RE: Office Action Dated 8/17/09**

Sir:

In an attempt to clarify the claims the examiner states that I have entered new matter. I will discuss the issues raised by the examiner for each below.

**Claim 3**

The present invention deals with the use of thio-phosphate as a substitute for phosphate to enhance the natural mutagenesis rate in bacteria. The present specification provides and an example using minimal media made with thio-phosphate rather than phosphate to enhance mutagenesis. The description of preferred embodiments also discusses the use of phosphate depleted nutrient broths to which thio-phosphate can be added. Some residual phosphate can remain and some can enter from thio-phosphate preparations that are not 100% pure. That is how I came to use the term "thio-phosphate as the predominant source". This is not new matter since the goal is to substitute phosphate with thio-phosphate. This is also what has been described in the claims of the parent application which has already issued. This limitation is not required and so it will be withdrawn to overcome the new matter objection. It is also changed for the subsequent claims.

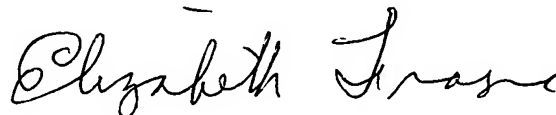
## Claims 4 & 5

Step 4 in claims 4 & 5 refers to repeating steps 1-3 of each respective claim. I added the term "generally 2 rounds of growth and amplification" to indicate the typical number of cycles needed. This is not new matter as the specification discusses 2-3 cycles of plating and amplification to achieve a mutation rate high enough to detect by screening individual bacteria or phage particles. With the use of positive selection methods as used in example 2 only one round of amplification was required for easy detection of the resistant yeast colonies. Below I have modified the claims by removing this limitation to overcome the new matter rejection.

I wish to declare and make a verified statement that the modified claims contain no new matter as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b) or 1.825 (d).

Please under MPEP 707.07(j) the pro se applicant requests that if the Examiner finds patentable subject matter disclosed in this application, but feels that applicant's present claims are not entirely suitable, the Examiner draft one or more allowable claims for the applicant.

Respectfully submitted,

A handwritten signature in black ink, reading "Elizabeth Frayne". The signature is written in a cursive, flowing style.

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